

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO TAX CREDITS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 235-110.8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§235-110.8 Low-income housing tax credit.** (a) Section  
4 42 (with respect to low-income housing credit) of the Internal  
5 Revenue Code shall be operative for the purposes of this chapter  
6 as provided in this section[-], except as provided in  
7 subsections (h) and (i).

8           (b) Each taxpayer subject to the tax imposed by this  
9 chapter, who has filed [+]a[+] net income tax return for a  
10 taxable year may claim a low-income housing tax credit against  
11 the taxpayer's net income tax liability. The amount of the  
12 credit shall be deductible from the taxpayer's net income tax  
13 liability, if any, imposed by this chapter for the taxable year  
14 in which the credit is properly claimed on a timely basis. A  
15 credit under this section may be claimed whether or not the  
16 taxpayer claims a federal low-income housing tax credit pursuant



1 to section 42 (with respect to low-income housing credit) of the  
2 Internal Revenue Code.

3 (c) The low-income housing tax credit shall be fifty per  
4 cent of the applicable percentage of the qualified basis of each  
5 building located in Hawaii. The applicable percentage shall be  
6 calculated as provided in section 42(b) (with respect to  
7 applicable percentage of the low-income housing credit) of the  
8 Internal Revenue Code.

9 (d) For the purposes of this section, the determination  
10 of:

- 11 (1) Qualified basis and qualified low-income building  
12 shall be made under section 42(c);
- 13 (2) Eligible basis shall be made under section 42(d);
- 14 (3) Qualified low-income housing project shall be made  
15 under section 42(g);
- 16 (4) Recapture of credit shall be made under section 42(j),  
17 except that the tax for the taxable year shall be  
18 increased under section 42(j)(1) only with respect to  
19 credits that were used to reduce state income taxes;  
20 and
- 21 (5) Application of at-risk rules shall be made under  
22 section 42(k) of the Internal Revenue Code.



1 (e) As provided in section 42(e) [7] (with respect to  
2 rehabilitation expenditures treated as separate new building of  
3 the low-income housing credit) of the Internal Revenue Code,  
4 rehabilitation expenditures shall be treated as separate new  
5 building and their treatment under this section shall be the  
6 same as in section 42(e). The definitions and special rules  
7 relating to credit period in section 42(f) and the definitions  
8 and special rules in section 42(i) shall be operative for the  
9 purposes of this section.

10 (f) The state housing credit ceiling, under section 42(h)  
11 (with respect to limitation on aggregate credit allowable of the  
12 low-income housing credit) of the Internal Revenue Code, shall  
13 be zero for the calendar year immediately following the  
14 expiration of the federal low-income housing tax credit program  
15 and for any calendar year thereafter, except for the carryover  
16 of any credit ceiling amount for certain projects in progress  
17 which, at the time of the federal expiration, meet the  
18 requirements of section 42 [7] (with respect to low-income  
19 housing credit) of the Internal Revenue Code.

20 (g) The credit allowed under this section shall be claimed  
21 against net income tax liability for the taxable year. For the  
22 purpose of deducting this tax credit, net income tax liability



1 means net income tax liability reduced by all other credits  
2 allowed the taxpayer under this chapter.

3 A tax credit under this section which exceeds the  
4 taxpayer's income tax liability may be used as a credit against  
5 the taxpayer's income tax liability in subsequent years until  
6 exhausted. All claims for a tax credit under this section must  
7 be filed on or before the end of the twelfth month following the  
8 close of the taxable year for which the credit may be claimed.  
9 Failure to properly and timely claim the credit shall constitute  
10 a waiver of the right to claim the credit. A taxpayer may claim  
11 a credit under this section only if the building or project is a  
12 qualified low-income housing building or a qualified low-income  
13 housing project under section 42 (with respect to low-income  
14 housing credit) of the Internal Revenue Code.

15 Section 469 (with respect to passive activity losses and  
16 credits limited) of the Internal Revenue Code shall be applied  
17 in claiming the credit under this section.

18 (h) In the case of any qualified low-income housing  
19 project placed in service beginning on January 1, 2010, section  
20 42(b)(2)(B) (with respect to method of describing percentages of  
21 the low-income housing credit) of the Internal Revenue Code  
22 shall be modified as follows: the percentages prescribed by the



1 Secretary for any month shall be percentages which will yield  
2 over a five-year period amounts of credit under subsection (a)  
3 that have present value equal to:

- 4       (1) Seventy per cent of the qualified basis of a building  
5             described in section 42(c)(1)(A); and
- 6       (2) Thirty per cent of the qualified basis of a building  
7             described in section 42(c)(1)(B).

8 For the purposes of this subsection the state housing credit  
9 shall be one hundred per cent of the applicable percentage of  
10 the qualified basis of each building located in Hawaii; provided  
11 that the applicable percentage shall be calculated as provided  
12 in section 42(b) (with respect to applicable percentage of the  
13 low-income housing credit) of the Internal Revenue Code.

14       (i) In the case of any qualified low-income housing  
15 project placed in service beginning on January 1, 2010, section  
16 42(f)(1) (with respect to credit period defined for the low-  
17 income housing credit) of the Internal Revenue Code shall be  
18 modified as follows: the term "credit period" means, with  
19 respect to any building, the period of five taxable years  
20 beginning with:

- 21       (1) The taxable year in which the building is placed in  
22             service; or



1        (2) At the election of the taxpayer, the succeeding  
 2            taxable year;  
 3 provided that the building is a qualified low-income building as  
 4 of the close of the first year of such period. The election  
 5 under paragraph (2), once made, shall be irrevocable.

6        [~~h~~] (j) The director of taxation may adopt any rules  
 7 under chapter 91 and forms necessary to carry out this section."

8        SECTION 2. Statutory material to be repealed is bracketed  
 9 and stricken. New statutory material is underscored.

10        SECTION 3. This Act, upon its approval, shall apply to  
 11 taxable years beginning after December 31, 2008.

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**Report Title:**

Low-Income Housing; Tax Credits

**Description:**

Reduces the period over which state low-income housing tax credits are taken from 10 years to 5 years.

